

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RONALD DUDAS,)	CASE NO. 4:12CV2109
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION AND
)	ORDER
WARDEN BENNIE KELLY,)	
)	
RESPONDENT.)	

Before the Court is the report and recommendation (ECF No. 10) of Magistrate Judge James R. Knepp II, recommending granting respondent Bennie Kelly's motion to transfer (ECF No. 5) this petition for writ of habeas corpus, filed under 28 U.S.C. § 2254, to the Sixth Circuit Court of Appeals. Under the relevant statute:

[. . .] Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). In this case, the fourteen-day period has elapsed and no objections have been filed nor has any extension of time been sought. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's report and recommendation and accepts the same. Specifically, respondent argues that Dudas's petition is a "second or successive

petition,” and that Dudas must seek permission from the United States Court of Appeals for the Sixth Circuit before his petition may be considered by this Court. 28 U.S.C. § 2244(b)(3)(A). Although Petitioner states that “a significant question exists” as to whether or not his petition is a “second or successive” petition, Petitioner agrees that “all concerned would be best served if the matter were immediately transferred to the Sixth Circuit.” (ECF No. 9 at Page ID # 460–61.)

Accordingly, the report and recommendation is accepted. Dudas’s Petition for Writ of Habeas Corpus (ECF No. 1) is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit for consideration. This case is closed.

IT IS SO ORDERED.

Dated: April 4, 2013



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE